

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 812 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NAVINCHANDRA F CHAMPANERI

Versus

DY DISTRICT DEVELOPMENT OFFICER

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Appearance:

MRS KETTY A MEHTA for Petitioner

M/S PURNANAND & CO for Respondent No. 1

MR HR LATHIGARA for Respondent No. 2

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CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 09/04/96

ORAL JUDGEMENT

Rule. Mr. Latigara waives service of rule for the respondents. At the request of both the sides the matter is heard for final hearing.

The grievance of the petitioner is that though his case was required to be considered by the concerned authority for deciding whether there were any exceptional grounds for permitting the petitioner to withdraw his

resignation under Rule 33A(5) of the B.C.S.Rs., the concerned authority without applying its mind to that aspect of the matter rejected the petitioner's application for withdrawal of resignation simply on the ground that the resignation was already accepted.

Earlier in Special Civil Application No. 388 of 1993 my Lord Mr. Justice J.M. Panchal on 17.11.1994 had given a direction to the respondent No. 1 to decide the petitioner's application dated 27.7.1992 in light of the provisions of sub-Rule (5) of Rule 33A of the B.C.S.Rs. by December 15, 1994. It was directed that while deciding the question whether exceptional ground is made out by the petitioner or not the respondents should take into consideration the fact that from 18.12.1992 to 8.9.1993 departmental proceedings were continued against the petitioner. Despite this clear directions the respondent No. 1 in his impugned order dated 9.12.1994 has not at all taken into account provisions of Rule 33A(5) which permit the authority to allow an employee to withdraw his resignation which has already been accepted on exceptional grounds or in public interest. Provisions of sub-Rule (5) of Rule 33A operate only after the resignation has become effective. Ordinarily, after the resignation has become effective, it cannot be permitted to be withdrawn. It may however be permitted to be withdrawn on exceptional grounds or in public interest. Respondent No. 1 therefore ought to direct himself into an inquiry in the facts and circumstances pointed out by the petitioner and come to a conclusion whether an exceptional ground for permitting him to withdraw his resignation is made out or not. The impugned order is therefore hereby set aside and the respondent No. 1 is directed to reconsider the application of the petitioner for withdrawal of his resignation in light of the directions already given by my Lord Mr. Justice J.M. Panchal in Special Civil Application No. 388 of 1993 and to decide whether there were exceptional grounds made out by the petitioner so as to allow him to withdraw his resignation. The decision may be taken expeditiously preferably within one month from today. Rule is made absolute accordingly with no order as to costs.

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